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Hartmut Breithaupt

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625 SLATERS LANE

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ALEXANDRIA, VA 22314-1176

EXAMINER

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Art Unit: 3751

Based upon consideration of all of the relevant factors with respect to the claim as a whole, claim(s) 8-11, 13 and 14 are held to claim an abstract idea, and is/are therefore rejected as ineligible subject matter under 35 U.S.C. 101. The rationale for this finding is explained below: The filling unit of applicant's claims is recited so generally as to encompass any machine capable of performing the desired steps. Use of the concept as recited in the method claims would effectively grant the applicant a monopoly over a mathematical algorithm. Furthermore, signals are not patentable subject matter under 35 U.S.C. 101.

Regarding the rejection of claims 8-11, 13 and 14 under 35 U.S.C. 112 2nd paragraph, it is not clear from the method as recited in the claim what aspect of the n filling instances is averaged.

Applicants arguments regarding the rejection of claims 1-11, 13 and 14 under 35 U.S.C. 103 is addressed in the office action mailed on 04/07/2010.

/Gregory L. Huson/

Supervisory Patent Examiner, Art Unit 3751